

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
MAY 12 A.M. 18
2005

JL

AQUINO OSORIA,

Petitioner,

vs.

CIVIL ACTION NO.: CV205-220

JOSE M. VASQUEZ, Warden,

Respondent.

ORDER

After an independent review of the record, the Court concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Osoria contends that the Magistrate Judge did not address jurisdictional issues involved in his case. Osoria asserts that his claims fall in the "third savings clause of the 2255." (Doc. No. 15, p. 4.) Osoria also asserts that he could not speak English and did not understand the proceedings at the time of his trial. Osoria further asserts that his trial counsel was ineffective, and, as a result, he has spent two decades in prison. Osoria avers that justice cannot prevail because his claims were not apparent at the time of his trial and direct appeal, and no court will entertain his claim on the merits.

The Court presumes that Osoria contends that his claims fall within the third prong of the savings clause of 28 U.S.C. § 2255, i.e., that circuit law foreclosed his claims when he could have brought them on a previous occasion. However, to satisfy the savings clause, a petitioner must meet *all* three requirements. As detailed by the Magistrate Judge, Osoria fails to meet at least two of these three prongs; thus, he has not satisfied the savings clause.

The Report and Recommendation of the Magistrate Judge is adopted as the opinion of the Court. Respondent's Motion to Dismiss is **GRANTED**. Osoria's petition for writ of habeas corpus, filed pursuant to 28 U.S.C. § 2241, is **DISMISSED**. The Clerk of Court is hereby authorized and directed to enter an appropriate Judgment of Dismissal.

SO ORDERED, this 12 day of May, 2006.



JUDGE, UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA